

*Civic Awakening in the Jury Room:
A Test of the Connection between Jury
Deliberation and Political Participation*

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Deliberative democratic theory posits that civic discussion leads to increased involvement in public affairs. To test this claim, this study explored the link between jury deliberation and electoral participation. It was hypothesized that empanelled jurors who reach verdicts are more likely to vote in subsequent elections than empanelled jurors who fail to reach a verdict or even begin deliberations. Data collected in Thurston County, Washington, supported this hypothesis. Controlling for other trial features and past voting frequency, citizens who served on a criminal jury that reached a verdict were more likely to vote in subsequent elections than were those jurors who deadlocked, were dismissed during trial, or merely served as alternates.

The participatory model of democracy depends upon high levels of civic activity (Putnam 1995a, 1995b, 2000). According to this model, ideal citizens regularly take part in local community activities, discuss public issues with one another, interact with government officials, and participate in periodic elections (Barber 1984; Mathews 1994; Pateman 1970). Given the philosophical and popular appeal of the participatory democratic vision, it is necessary to further explore the mechanisms through which a society promotes and sustains high levels of political participation. In particular, it is important to understand how a society institutionalizes civic participation.

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The purpose of this study is to test the validity of a particular approach to stimulating political participation. Participatory democratic theorists have argued that the best means of promoting widespread public involvement is to persuade citizens to become involved in even a small part of public life (Barber 1984; Pateman 1970). A recent version of this hypothesis holds that citizen deliberation, in particular, bolsters civic activity by increasing participants' levels of political efficacy (Cohen 1997; Deess 1997; Fishkin 1991; Gastil 2000).

To test the deliberative version of the participation hypothesis, we examine the link between political participation and an institutionalized form of citizen deliberation. Specifically, we ask whether deliberating and reaching a verdict on a jury increases the likelihood of voting in subsequent elections. We chose this particular test for methodological reasons, which are discussed below, and because this formulation of the participation hypothesis has a special significance. Constitutional scholars, lawyers, and judges have not had the benefit of empirical evidence linking jury service and political participation, yet an emerging branch of legal scholarship assumes as much to explain the constitutional significance of the Seventh Amendment's guarantee to a trial by jury and to justify juries where other forms of dispute resolution might be more efficient. For instance, with respect to the Seventh Amendment, a number of commentators maintain that the oft-called "right to a jury trial" might be more aptly termed a "right to serve on a jury." The presumption is that the jury not only protects individual liberty but also provides average citizens an important entry into public life (Amar 1991; Storing 1981).¹

In sum, the link between jury deliberation and political engagement is implicit in participatory and deliberative democratic theory, and it is assumed by many legal scholars and judges. The purpose of this note is to learn if and when such a link exists. Before discussing the design and results of this test, it is necessary to clarify its theoretical justification.

Theory and Research

Though deliberative democracy has begun to develop a unique niche within democratic theory (e.g., Cohen 1997; Elster 1998; Fishkin 1991; Gutmann and

¹ In a series of recent cases, the Supreme Court has endorsed the political role of jury service in our constitutional order, concluding that the right to serve on a jury constitutes a valuable civic opportunity that cannot be deprived by, for instance, race-based peremptory strikes. In *Powers v. Ohio* (1991), the Supreme Court explained that all citizens enjoy a constitutional right to serve on a jury. In doing so, the court invoked the following passage from Alexis de Tocqueville: "The jury invests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge towards society; and the part which they take in the Government. . . . I am certain it is highly beneficial to those [citizens] who decide the litigation; and I look upon it as one of the most efficacious means for the education of the people which society can employ" (Tocqueville 1961, 334–37). By justifying juries not as an efficient form of dispute resolution, but as an important opportunity to inculcate civic virtue and induce political participation, it is far easier to understand why the Seventh Amendment safeguards this opportunity ("Development," 1997).

Thompson 1996), it has deep roots in participatory theories of democracy (Barber 1984). Even the empirical claims in deliberative theory have their origins in participatory democratic models.

Participation and Deliberation

Drawing on Rousseau, Mill, and critical writings of the 1960s and 1970s, participatory theorists argue that democracy requires increased public participation in the political process (Barber 1984; Dalton 1988; Pateman 1970; Pedersen 1982; Thompson 1970). Although their views differ in many respects, participatory democrats agree that “democratic participation is . . . likely to develop just those values and capacities that democracy needs to be a viable, thriving, and vibrant system of government” (Warren 1993, 210). If people become drawn into one civic activity, they will develop skills, attitudes, and habits that lead to deeper entry into the public sphere. This theoretical claim has come to be known as the “participation hypothesis” (Finkel 1985; Freie 1997).

Though Pateman (1989) once lamented the dearth of research on this hypothesis, recent studies have established that active membership in voluntary associations can increase political participation and political efficacy (Evans and Boyte 1992; Leighley 1995; Verba, Scholzman, and Brady 1995). An earlier study also found evidence that over time, present electoral participation increases future political participation (Pedersen 1982).

In the past decade, many democratic theorists have narrowed their focus to explore the civic benefits of a particular form of participation—public deliberation. As defined herein, public deliberation is the careful weighing of alternative resolutions to any public or civic problem. In a face-to-face, small group setting, ideal deliberation entails active participation, sustained attention, critical listening, and reasoned discussion on a relatively focused topic (Cohen 1997; Fishkin 1991; Gastil 1993, 2000).

Proponents of citizen deliberation claim that taking part in public forums, conventions, and panels can change citizens’ attitudes and behaviors. As Mathews (1994, 195) argues, citizens who have deliberated “have actually experienced a measure of the democratic ideal in practice;” participants come to believe that “if deliberation can happen in one meeting, it can happen in others; that if citizens can claim responsibility and act in one community, they can become the ‘solution’ they are looking for in other communities.” More precisely, the benefits ascribed to deliberation include informed and reflective judgments, a greater degree of political efficacy, and, ultimately, an increase in the frequency of political action (Cohen 1997; Fishkin 1991; Gastil and Dillard 1999a, 1999b; Gutmann and Thompson 1996; Mathews 1994; Pearce and Littlejohn 1997). Furthermore, only a *successful* behavioral performance (Bandura 1986) of deliberation is likely to increase political efficacy. In all likelihood, significant increases in political efficacy occur more often for active participants at relatively successful deliberative events (Gastil and Dillard 1999a).

Though the data used in the present study do not permit testing the mediating role of efficacy, our general hypothesis is that active participation in successful, institutionalized, public deliberation contributes to increased political participation.

Testing the Impact of Deliberation

In testing this deliberative participation hypothesis, it is useful to recognize and attempt to overcome the limitations of past research. First, studies on deliberative forums have relied on either self-report data (e.g., Fishkin and Luskin 1999) or a limited set of field observations (Mendelberg and Oleske 2000). An ideal study would collect a large sample of observational data not subject to self-report biases. Second, only short-term changes have been measured (e.g., Denver, Hands, and Jones 1995), leaving open the question as to deliberation's lingering impact weeks, months, or years later. If a study could put sufficient temporal distance between the deliberative experience and subsequent behavioral choices, it could test the long-term impact of public deliberation. Third, research has never linked publicly *institutionalized* deliberation with actual political participation, such as voting in elections. The strongest claim in the participation hypothesis is that civic activity can spark future public engagement, even when the initial activity was not undertaken spontaneously or even as a consciously political act.

The American jury system offers institutionalized, non-voluntary deliberation to average citizens and thus provides an opportunity to overcome the limitations common to much research. Jury data also permit comparison of a variety of deliberative situations. This feature is critical because our hypothesis maintains that deliberation's behavioral impact depends on the nature of one's experience at a deliberative event. Not all jurors have a conclusive deliberative experience serving on juries, and it is possible to use objective data in distinguishing conclusive from inconclusive experiences.

Specifically, we define a conclusive deliberative experience as deliberating in a jury that reaches a verdict. In these cases, the juror's: final judgment has prevailed, and s/he has contributed to an important decision that has a clear impact. An inconclusive experience is one in which the juror: remains an alternate (watches the trial but does not join in jury deliberations); observes a trial that is not completed (e.g., the defendant changes his or her plea to guilty); or takes part in deliberation that fails to produce a verdict (a hung jury). In these cases, the juror had no clear impact or has participated without seeing a conclusive result.

Whether a juror has a conclusive or inconclusive experience depends largely on random assignment. One has little control over whether one becomes an alternate or a seated juror, and individual jurors have no bearing on the likelihood of a trial ending prematurely. Individual jurors may lead their juries to hung verdicts, but there is no strong evidence of a relationship between the

social/psychological characteristics of individual jurors and the likelihood of hung verdicts. More important, there is no evidence whatsoever of a connection between a person's past political behavior and the likelihood of that person contributing to a hung jury. Though it is certainly the case that the jury pool differs from the larger population (Knack 1993) and empanelled jurors differ from excused jurors (Wigley 1995), it is highly unlikely that once empanelled, juror characteristics determine whether one has conclusive or inconclusive deliberative experiences, as defined herein. In any case, past voting frequency can be controlled statistically, and our analyses do so.

Therefore, one can test the deliberative version of the participation hypothesis by ascertaining whether the nature of the jury experience has an impact on future political participation. Specifically, we hypothesized that jurors who had conclusive deliberative experiences would become more likely to vote in subsequent elections than comparable jurors who had inconclusive experiences. We also examined whether additional trial features moderate the impact of jury deliberation on voting frequency. Voting history, as measured by official public records, serves as a useful measure of political participation. It provides an unambiguous measure that is recorded with high fidelity by public officials unassociated with the current research project.

Method

Participants

After omitting cases with missing data, the main analyses presented below use a sample of 794 criminal jurors who came from 110 criminal trials held between September 8, 1994, and November 1, 1996, in Thurston County, Washington. Study participants were identified by reviewing the case files for all jury trials at the county's courthouse with a docket date after August 1994 and before December 1996.² During the period 1997–1998, researchers and assistants inspected case files by hand and recorded the full names of jurors from written lists enclosed in the files. Juror names were used to merge juror data with voter registration lists provided by the Thurston County auditor's office after the November 1997 general election.

²Because the researchers anticipated a very small effect in the population (e.g., $r = .10$), a large sample was collected to ensure an adequate statistical power (for $N = 794$ with a one-tailed $\alpha = .05$, power = .88 for finding $r = .10$). The sample of civil jurors initially collected for this study had inadequate power (for $N = 253$, power = .47 for finding an $r = .10$). Thus, when analysis of the civil sample produced nonsignificant effects, this only ruled out effects larger than $r = .17$ (Cohen 1988), which is much larger than the predicted association. Future research with larger civil samples may discover that the effect of serving varies by type of jury. After all, public attitudes toward criminal juries are different from those toward civil juries (Hans 1993).

Trial Characteristics

The jurors included in this study had participated in a wide variety of trials. The criminal charges ranged from homicide to drug possession. Most criminal trials focused on a single charge, but 40% involved multiple charges (e.g., unlawful possession of a controlled substance and resisting arrest). The median time spent in the jury box during a trial was nine hours. Deliberation in the jury room lasted between one and two hours for 43% of criminal case jurors. Another 32% of jurors spent a total of three or four hours deliberating on a verdict. Sixty percent of jurors participated in deliberations resulting in unanimous guilty verdicts on at least one charge. Twenty-four percent reached verdicts of not guilty, and the remaining 16% failed to reach verdicts or had mistrials (e.g., case dismissed, change in plea).

Measures

In addition to juror names, many other details were recorded for each of the 110 cases studied. We recorded the date of the trial, the number of charges against the defendant, the duration of the trial (rounded to the nearest hour), and the duration of jury deliberation (rounded to the nearest hour). The inclusion of these variables is warranted because of the potential moderating effects of situational factors on the impact of deliberative forums (Gastil and Dillard 1999a). Thus, in the analyses presented below, we treated these as possible moderator variables.

To determine the nature of each juror's experience with deliberation, we recorded the role of each juror (seated or alternate) and the final dispositions of cases (guilty or not guilty, mistrial, etc.). These measures were combined into a single dichotomous measure of each juror's deliberative experience: jurors who served as alternates or participated in trials that did not reach a verdict (e.g., hung jury, case dismissed) were categorized as having an inconclusive deliberative experience. Those who served as seated jurors on a jury that reached at least one verdict were labeled as having a conclusive deliberative experience.

Two variables in this study were measured using voting data provided by the Thurston County auditor's office for elections during 1994–1997. (To reduce the size of the county database, the auditor had deleted pre-1995 voting history for some records.) During the period studied, Thurston County held nine county-wide elections: a November 1994 general election; a September primary and November general elections in 1995, 1996, and 1997; an additional presidential primary election in March 1996; and a special election in June 1997 (a referendum on building a new stadium). In the four primary elections, turnout was moderate: 44% of registered voters participated in the 1995 primary, 43% in the 1996 presidential primary, 47% in the regular 1996 primary, and 38% in the 1997 primary. In the general elections, turnout was higher: 63% in 1994, 57%

in 1995, 72% in 1996, and 61% in 1997. Fifty-six percent of eligible voters participated in the 1997 special election.

The dependent variable, post-jury voting rate, was measured as the rate of participation in elections held *after* serving on a jury. Pre-jury voting rate was the rate of participation in elections held *before* jury service. In many cases, jurors had become registered voters in Thurston County after 1994 and, consequently, had only partial voting histories. In these cases, the denominator was adjusted accordingly to calculate an accurate participation rate. Some jurors were dropped from the study because they had served on juries early in the study period and had no known voting history prior to service.

To analyze the link between jury deliberation and voting history, it was necessary to create a computer program to match registered voter names with the names extracted from jury lists. The matching guidelines, which are available upon request, resulted in the rejection of only 1.6% of the names in the original juror database we had compiled.

Results

Linear regression equations were used to measure the relationship between deliberative experience and post-jury voting rate. In the regression equation, deliberative experience was entered along with pre-jury voting rate, duration of trial, duration of deliberation, and the number of charges against defendants. Pre-jury voting was entered to control for the potential influence of prior voting history, and the other trial features were entered as potential moderators of the jury-voting link.³

Table 1 shows the results of the regression equation. Entered as a dichotomous variable, deliberative experience had a significant association with post-jury voting rate ($b = .077$, $p = .009$). The effect was in the hypothesized direction, with conclusive deliberative experience being associated with higher rates of post-jury voting. The unstandardized coefficient ($B = .096$) shows that controlling for other variables in the equation, those who served on criminal juries that reached verdicts had a 10% higher turnout rate in subsequent elections than did those study participants who had inconclusive experiences (i.e., alternates, dismissed, mistrials).

Two other significant relationships are shown in Table 1. The strong association between pre-jury voting and post-jury voting ($b = .56$, $p < .001$) is unremarkable, since one's voting history should be the strongest predictor of future electoral participation. Post-jury voting, however, was also associated with the

³Zero-order correlations among the independent and moderating variables were as follows: duration of trial was correlated with duration of deliberation ($r = .22$, $p < .05$), number of charges ($r = .35$, $p < .05$), and deliberative experience ($r = .27$, $p < .05$); duration of trial was correlated with number of charges ($r = .09$, n.s.) and deliberative experience ($r = .23$, $p < .05$); deliberative experience was not significantly correlated with the number of charges ($r = -.02$); and past voting frequency had no significant relationships with any of these variables.

TABLE 1
 Linear Regression Measuring the Effect of Criminal
 Jury Experience on Post-Jury Voting Rate

	Unstandardized Coefficient (SE in parentheses)	Standardized Coefficient
Conclusive deliberative experience	.096 (.037)	.077*
Number of charges	.021 (.007)	.095*
Trial duration (hours)	.002 (.001)	-.057
Deliberation duration (hours)	.004 (.005)	.022
Pre-jury voting rate	.437 (.023)	.562*
R ²	.334*	
N	794	

* $p < .01$. Conclusive deliberative experience is a dichotomous variable (0 = inconclusive experience serving on a jury, 1 = conclusive)

number of charges ($b = .095$, $p = .002$). In other words, the more numerous the charges against the defendant in a criminal trial, the higher a juror's subsequent voting rate. This finding is discussed in greater detail in the discussion section.

Finally, it was necessary to determine whether these differences in post-jury voting for jurors with different experiences reflected an *increase* in voting likelihood relative to a baseline. In other words, it was possible that the obtained differences in post-jury voting were due to a *decline* in turnout for jurors with inconclusive deliberative experiences, rather than an increase in turnout for those with conclusive ones. The data supported the latter interpretation: For all but one election, turnout for jurors with inconclusive experiences was higher than the general turnout for Thurston County, and turnout for jurors with conclusive experiences was even higher. The one exception was the 1996 presidential primary, in which 42.7% of registered voters turned out countywide, compared to 42.4% of jurors with inconclusive experiences and 52.2% with conclusive ones.⁴

Discussion

Taken together, these data permit two related inferences. First, it appears that the nature of a juror's deliberative experience is related to future voting likelihood. Registered voters who actively participated in criminal juries that successfully reached verdicts were more likely to vote in future elections than those empanelled jurors who simply played the role of alternate, had no chance to deliberate, or failed to reach a verdict after deliberating.

⁴This does not resolve this question, as it is possible that the individuals who became seated jurors may have turned out in even higher percentages had they never been called for jury duty. It would be extremely difficult to rule out this possibility; it would require finding and measuring turnout for residents who, if called for jury duty, would have become seated jurors.

Second, this study lends support to the claim regarding a *causal* relationship between jury service and voting. By controlling for pre-jury voting rates, the analyses demonstrate that a conclusive deliberative experience raises future voting rates above those expected based on prior voting history. Moreover, the apparent link between post-jury voting rate and trial features (case type and number of charges) are only explained plausibly in terms of jury service influencing voting, not vice versa.

A more striking trial feature was the number of criminal charges. It is plausible that the number of charges is positively associated with the seriousness of an offense and the severity of a defendant's potential sentence. If the seriousness of the case stimulates greater deliberation (see Bessette 1994, 217), then these results also fit within the general pattern: the positive effect of jury service on future voting likelihood increases in proportion to the depth and gravity of a jury's deliberation. This explanation is consistent with the persuasion literature, which has found that careful analysis of arguments (i.e., deliberation) is most likely to occur when people have a high level of involvement in the discussion (Petty and Cacioppo 1986, 1990).

The remaining measured trial features—duration of trial and duration of deliberation—had no impact on post-jury voting rates. Though such features may have real but extremely small effects that might be detected with an even larger sample, the absence of an effect in this study suggests that the quality of a deliberative experience is more important than the quantity. This finding should hearten those advocates of deliberation who promote forums and study circles that sometimes last only a few hours (Mathews 1994; Pearce and Littlejohn 1997).

Moving beyond the present findings, future research could use the same study design in other states to determine the generalizability of our conclusions. With large enough samples, it would be possible to disaggregate jurors with inconclusive experiences into those who were alternates, those who were dismissed, and those who were unable to reach verdicts. To the extent possible and ethical, such research might also survey jurors to obtain relevant demographic and attitudinal information, as well as their own recollections of their individual experiences as jurors. Other studies could go outside of courthouses to obtain data, provided that other deliberative forums have maintained records that would permit mergers with voter registration databases. If those records include the full names of participants (i.e., permit a high proportion of matches), then one could test the effect of nongovernmental forums on voting.

Though such research surely will refine our findings, the results of this study suggest revising the broader participation hypothesis: participation begets participation, but only when that participation is conclusive. Jurors who served on criminal trials that *reached verdicts* became more likely to vote in subsequent elections. This underscores the likelihood of the mediating effect of efficacy on the jury-voting link because efficacy is most likely to develop as a consequence of a conclusive and rewarding behavioral enactment (Bandura 1986).

Tocqueville (1961, 337) wrote, and many constitutional scholars and jurists have presumed it true, that the jury “is highly beneficial to those who decide the litigation” and “one of the most efficacious means for the education of the people which society can employ.” The study presented here suggests in broad terms that the jury system may serve as an institutionalized school for political participation. Though the effects observed in this study are modest, over time and across a large population they could constitute a tremendous force sustaining political participation across generations.

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